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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/064,915	08/28/2002	James Feine	USI-37A	9566
23508	7590	07/23/2004		
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			EXAMINER	
			MANAHAN, TODD E	
		ART UNIT	PAPER NUMBER	
		3732	3	

DATE MAILED: 07/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/064,915

Applicant(s)

FEINE, JAMES

Examiner

Todd E. Manahan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 8-17 is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 August 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 2.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_.

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## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1 there exists an inconsistency between the language of the preamble and that of the body of the claim, thus making its scope unclear. The preamble recites a footswitch with the dental scaler only functionally recited, thus indicating that the claim is drawn to the subcombination only. However the body of the claim, and certain dependent claims, positively recite the dental scaler, e.g. "providing an electrical connection to a handpiece in a standard dental scaler", as well as other elements of the disclosed system in addition to the footswitch, e.g. the remote head, thus indicating that the claims are intended to be drawn to the combination of the footswitch, scaler and these other elements. Claim 8 contains a similar problem. Applicant is hereby required to indicate to which, the subcombination, footswitch only, or the combination, the claims are intended to be drawn and make the language of the claims consistent with this intent. For examination purposes, claims 1 and 7 will be considered as drawn to a footswitch assembly comprising the foot switch and the remote head.

Also in claim 1, line 11, "the footswitch power supply" lacks a prior antecedent.

### ***Allowable Subject Matter***

Claims 8-17 are allowed.

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Claims 1-7, as understood, would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.

The following independent claims drafted by the examiner and considered to overcome the rejection under 35 USC 112, second paragraph, and distinguish patentably over the art of record in this application, are presented to applicant for consideration:

(replacement for claim 1)

A footswitch assembly for a dental scaler comprising:

a sealed footswitch housing, said housing including a power switch disposed within the housing, a pivotal member operable by the foot to engage and disengage the power switch, a circuit energized by the power switch to drive an oscillator for providing power to an ultrasonic transducer in a dental scaler for converting electrical energy to mechanical energy, a potentiometer for regulating power to the ultrasonic transducer relative to movement of the foot switch, and a hydraulic solenoid which is energized by the power switch for opening a valve disposed in the housing for causing movement of water through the footswitch housing to the dental scaler;

a cable for connecting an electrical power supply to the housing;

a hose for connecting a water supply to the housing;

a remote head for providing an electrical and fluid connection to a handpiece of the dental scaler and a valve disposed in the head for the adjustment of water flow to the handpiece;

and

a conductor bundle providing electrical and fluid connection between the footswitch housing and the head.

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*Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

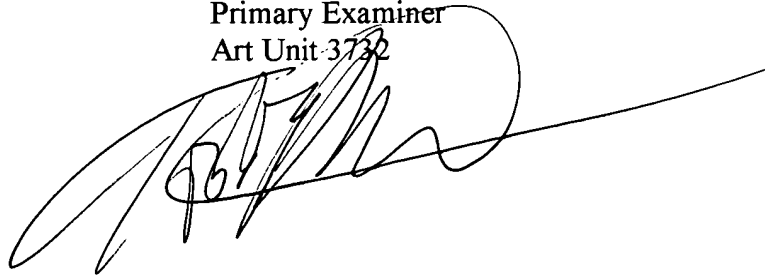
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Todd E. Manahan whose telephone number is 703 308-2695. The examiner can normally be reached on Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on 703 308-2582. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Todd E. Manahan  
Primary Examiner  
Art Unit 3732

T.E. Manahan  
15 July 2004

A handwritten signature in black ink, appearing to read 'T.E. Manahan', is written over the printed name and title. The signature is stylized with a large loop and a long horizontal stroke extending to the right.